

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SAMUEL STEEL, III,

Plaintiff,

v.

MICHAEL KELLY, et al.,

Defendants.

Case No. 1:15-cv-1094

HON. JANET T. NEFF

_____ /

OPINION AND ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983 involving Plaintiff's claim of false arrest. Defendants filed a motion for summary judgment, arguing that the claim was time barred. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending Defendants' motion be granted and this action terminated. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Plaintiff argues that the Magistrate Judge erred in (1) "non-consideration of his facts," (2) "disregard[ing] the Supreme Court's definition of 'legal process,'" and (3) dismissing his "legal process" argument due to the fact that he was released on bond the same day as his arrest (Pl. Obj.,

ECF No. 34 at PageID.185, 187, 189; R&R, ECF No. 33 at PageID.183). Plaintiff's argument fails to demonstrate any factual or legal error in the Magistrate Judge's analysis or conclusion.

The Magistrate Judge properly considered the facts and applied case law. Plaintiff misconstrues the law regarding the running of the statute of limitations period when the arrestee is afforded "legal process" (R&R, ECF No. 33 at PageID.183). The Magistrate Judge correctly applied the law to begin the running of the statute of limitations period at the later of either the time of arrest, or when the "detention without legal process" ends (*id.*). Since Plaintiff was arrested and released on bond the same day, he was no longer *detained* without legal process. The Magistrate Judge properly concluded that Plaintiff's claim is time barred.

Accordingly, this Court adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court. A Judgment will be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58. Because this action was filed *in forma pauperis*, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of this decision would not be taken in good faith. *See McGore v. Wigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007). Therefore:

IT IS HEREBY ORDERED that the Objections (ECF No. 34) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 33) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Motion for Summary Judgment (ECF No. 24) is GRANTED.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

Dated: September 15, 2017

/s/ Janet T. Neff

JANET T. NEFF
United States District Judge